

Message Text

LIMITED OFFICIAL USE

PAGE 01 PARIS 21477 01 OF 02 071029Z
ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 ARA-10 SS-15 SSO-00
NSCE-00 INRE-00 CAB-02 CIAE-00 DODE-00 DOTE-00
INR-10 NSAE-00 FAA-00 L-03 COM-02 /076 W
-----042661 071039Z /21

O O 071008Z JUL 78 ZFF 4
FM AMEMBASSY PARIS
TO SECSTATE WASHDC NIACT IMMEDIATE 4427
INFO AMEMBASSY BONN
USMISSION GENEVA IMMEDIATE
AMEMBASSY LIMA IMMEDIATE
AMEMBASSY LONDON

LIMITED OFFICIAL USE SECTION 01 OF 02 PARIS 21477

DEPT DELIVER ACTION OFFICE OPENING OF BUSINESS

GENEVA FOR ASST SECY KATZ

LIMA FOR ATWOOD

E.O. 11652: N/A
TAGS: EAIR, FR
SUBJ: CIVAIR: PAN AM CHANGE OF GAUGE

REFS: (A) PARIS 21415, (B) PARIS 21304,
(C) STATE 168610

1. SUMMARY: THE FRENCH REPLY, NOT SURPRISINGLY, IS
NEITHER A "YES" OR "NO" TO THE U.S. PROPOSAL AS A
WHOLE. THE SURPRISE IS THAT THE FRENCH NOW ENVISAGE
BINDING ARBITRATION ON CHANGE OF GAUGE COMBINED WITH
NON-BINDING ARBITRATION ON PART 213. OTHER SIGNIFICANT
REMAINING DIFFERENCES INCLUDE (A) CONTINUED FRENCH
INSISTENCE THAT PAN AM'S OPERATING PLAN FOR THE INTERIM
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 21477 01 OF 02 071029Z

REGIME BE SPELLED OUT IN DETAIL AND (B) FRENCH
UNWILLINGNESS TO MAKE AN ADVANCE COMMITMENT REGARDING
METHOD FOR DECIDING ON AN INTERIM REGIME SHOULD FRANCE
PREVAIL BEFORE THE ARBITRAL TRIBUNAL ON THE ARGUMENT
ABOUT EXHAUSTION OF LOCAL REMEDIES. IN VIEW OF THE
TIGHT TIMETABLE, WE WOULD APPRECIATE SUBSTANTIVE
GUIDANCE BY OPENING OF BUSINESS PARIS TIME SATURDAY.

WE ALSO NEED GUIDANCE ON WHETHER THE FRENCH TEAM SHOULD BE INVITED TO WASHINGTON TO CONTINUE TALKS ON MONDAY IN THE ABSENCE OF FRENCH ACCEPTANCE OF OUR PROPOSAL AS A WHOLE. EMBASSY URGES THAT WE OFFER TO RECEIVE THE TEAM IRRESPECTIVE OF THE SUBSTANTIVE POSITION AS OF SATURDAY. THIS WILL KEEP OPEN CHANCE FOR AGREEMENT AND AVOID PUTTING ONUS ON THE U.S. FOR BREAKING OFF.
END SUMMARY.

2. THE FRENCH ANSWER (REFTEL A) WAS DEVELOPED AT A LENGTHY INTERMINISTERIAL MEETING JULY 6, CHAIRED BY ONE OF PRIME MINISTER BARRE'S STAFF. DE SEDOUY OF THE FOREIGN MINISTRY AND TWO QUAI LAWYERS CONVEYED IT TO MINECON AND CIVIL AIR ATTACHE IN THE EVENING. WE REMINDED THEM THAT WE COULD ONLY TRANSMIT THE FRENCH RESPONSE AND EXPLORE IT FOR PURPOSES OF CLARIFICATION SINCE THE INDIVIDUAL PARTS OF OUR PROPOSAL HAD BEEN CONTINGENT ON FRENCH ACCEPTANCE OF THE WHOLE.

3. WE ASSUME THAT THE FRENCH POSITION IN PART I OF THEIR PAPER WHICH ENVISAGES DECEMBER 10 AS THE DEADLINE FOR THE ARBITRAL PROCEDURE IS ACCEPTABLE. WE NEVERTHELESS HELD BACK FOR THE TIME BEING, INDICATING THAT WE STILL FAVOR DATE OF ABOUT NOVEMBER 10.

4. WITH REGARD TO PART II OF THE FRENCH PAPER: WE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PARIS 21477 01 OF 02 071029Z

PROBED AT SOME LENGTH TO FIND OUT WHY THEY INSIST ON DECIDING IN ADVANCE THE PRECISE OPERATING ARRANGEMENTS FOR PAN AM DURING THE INTERIM REGIME. APART FROM THE STATED REASON (TO AVOID RISK OF LATER MISUNDERSTANDINGS ABOUT THE REGIME'S IMPLEMENTATION), THE FRENCH SEEM CONCERNED THAT ANY FLEXIBILITY GIVEN PAN AM WITHIN THE GENERAL 50-50 PRINCIPLE MIGHT PREJUDICE THEIR POSITION IN THE ARBITRAL PROCEEDINGS. WE ARGUED THAT, ONCE THE TWO GOVERNMENTS HAVE AGREED THAT PAN AM CAN FLY FOR HALF THE TIME FROM MAY 3 TO THE END OF ARBITRATION, THE OPERATING ARRANGEMENTS SHOULD BE DECIDED BY THE COMPANY ON TECHNICAL AND COMMERCIAL GROUNDS. IN RESPONSE TO THEIR QUESTIONS, WE SAID THAT WE DID NOT KNOW PAN AM'S DESIRES IN THIS REGARD. WE WERE NOT CERTAIN THAT PAN AM ITSELF COULD DECIDE, GIVEN UNCERTAINTIES OF THE PRESENT SITUATION.

5. WITH REGARD TO PART IV OF THE FRENCH PAPER: THEY HAVE, TO OUR SURPRISE, PROPOSED NON-BINDING ARBITRATION ON THE PART 213 QUESTION (ALTHOUGH PART 213 IS NOT EXPLICITLY MENTIONED). WE INDICATED THAT -- WHETHER BINDING OR NOT -- INTRODUCTION OF THE 213

LIMITED OFFICIAL USE

NNN

LIMITED OFFICIAL USE

PAGE 01 PARIS 21477 02 OF 02 071111Z
ACTION EB-08

INFO OCT-01 EUR-12 IO-13 ISO-00 ARA-10 CAB-02 CIAE-00
DODE-00 DOTE-00 INR-10 NSAE-00 FAA-00 L-03 COM-02
SS-15 SSO-00 NSCE-00 INRE-00 /076 W
-----043033 071123Z /12

O O 071008Z JUL 78 ZFF 4
FM AMEMBASSY PARIS
TO SECSTATE WASHDC NIACT IMMEDIATE 4428
INFO AMEMBASSY BONN
USMISSION GENEVA IMMEDIATE
AMEMBASSY LIMA IMMEDIATE
AMEMBASSY LONDON

LIMITED OFFICIAL USE SECTION 02 OF 02 PARIS 21477

ISSUE WOULD INEVITABLY COMPLICATE AND PROLONG THE
ARBITRAL PROCEEDINGS. WE STOOD ON OUR VIEW THAT BOTH
SIDES SHOULD BE PRACTICAL AND CONSIDER THE ISSUE MOOTED
IF AGREEMENT COULD BE REACHED IN TIME FOR WITHDRAWAL OF
THE PART 213 ORDER. DE SEDOUY SAID THAT THE FRENCH
CONSIDER THEIR PROPOSAL A MAJOR STEP TOWARD THE U.S.
SINCE (A) THEY APPRECIATE THAT WE WOULD NOT WANT TO
ACCEPT BINDING ARBITRATION ON THE CONSEQUENCES OF OUR
DOMESTIC LAW AND REGULATION AND (B) NON-BINDING
ARBITRATION IS THEIR RIGHT IN ANY CASE.

6. REGARDING PARA V OF THE FRENCH PAPER: WE ATTEMPTED
TO CLARIFY THE FRENCH RATIONALE FOR REFUSING TO AGREE
TO A PROCEDURE FOR DETERMINING THE INTERIM REGIME IF
THE FRENCH PREVAIL ON THE EXHAUSTION OF LOCAL REMEDIES
POINT. DE SEDOUY AND HIS COLLEAGUES FIRST EXPLAINED

REFERENCE TO EXHAUSTION OF LOCAL REMEDIES IS TO BE
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 PARIS 21477 02 OF 02 071111Z

INCLUDED ONLY IN THE PREAMBULAR LANGUAGE AND NOT IN THE COMPROMIS PROPER. THEY INSISTED THAT, IN FACT, THE FRENCH WANT THE PREAMBULAR REFERENCE OUT OF A SENSE OF CANDOR, I.E., SO THAT WE WOULD NOT BE ABLE TO CLAIM SURPRISE OR ACCUSE THEM OF DECEPTION AS WOULD HAVE BEEN THE CASE HAD THEY RAISED THIS ISSUE ONLY AFTER SIGNATURE OF THE COMPROMIS. UNDERLYING THE FRENCH POSITION, THEY SAID, WAS AN UNWILLINGNESS TO PREJUDGE THE CONSEQUENCES FOR THE INTERIM REGIME (OR ANY OTHER ASPECT OF THIS DISPUTE) OF A POSSIBLE ARBITRAL DECISION ON THE QUESTION OF EXHAUSTION OF LOCAL REMEDIES. WE OBJECTED THAT THEIR APPROACH WAS AT VARIANCE WITH THE BASIC PRINCIPLE OF PERMITTING PAN AM TO FLY DURING HALF THE PERIOD FROM MAY 3 TO THE ARBITRAL DEADLINE AND LEAVING THE INTERIM REGIME UP TO THE PANEL SHOULD ARBITRATION GO BEYOND THE DEADLINE AGREED BY THE PARTIES. THE FRENCH REPLIED THAT THEY WERE ALREADY MAKING A "COMPLETELY UNPRECEDENTED" CONCESSION IN AGREEING TO ANY REGIME AND IN AGREEING THAT THE ARBITRAL TRIBUNAL MIGHT MAKE AN INTERIM RULING SHOULD IT NOT BE ABLE TO ANNOUNCE A DECISION BY THE PROPOSED ENDING DATE. HOWEVER, THEY COULD NOT AGREE TO SINGLING OUT THE POSSIBILITY OF AN INTERIM REGIME SHOULD THE FRENCH PANEL UPHOLD THE FRENCH ON LOCAL REMEDIES AND SHOULD THE COURT ACTION TAKE SOME TIME.

7. COMMENT: WE VERY MUCH APPRECIATE THE WASHINGTON BACKSTOPPING ON THIS ISSUE. GIVEN THE TIGHT TIMING PROBLEM AND NEED FOR FRENCH GOVERNMENT TO MAKE A DECISION ON SENDING A TEAM TO WASHINGTON, WE NEED GUIDANCE BY OPENING OF BUSINESS SATURDAY PARIS TIME. EVEN IF WE MUST RECORD LESS THAN COMPLETE AGREEMENT ON THE SUBSTANTIVE ISSUES BY END OF THE WEEK HERE, WE LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 PARIS 21477 02 OF 02 071111Z

STRONGLY RECOMMEND THAT THE FRENCH TEAM BE INVITED TO WASHINGTON FOR NEGOTIATIONS ON MONDAY. THIS WILL GIVE AN OPPORTUNITY TO REACH AGREEMENT ON A COMPROMIS UP TO THE LAST MINUTE. IF THE FRENCH SHOULD FAIL TO ACCEPT THE INVITATION, THE ONUS FOR BREAKING OFF THE TALKS WOULD CLEARLY BE ON THEM.
HARTMAN

LIMITED OFFICIAL USE

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: COMMERCIAL AIRCRAFT, AVIATION AGREEMENTS
Control Number: n/a
Copy: SINGLE
Draft Date: 07 jul 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978PARIS21477
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D780278-1249
Format: TEL
From: PARIS
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t19780786/aaaacudj.tel
Line Count: 219
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: a55a6479-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 78 PARIS 21415, 78 PARIS 21304, 78 STATE 168610
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 05 may 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: N/A
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2087088
Secure: OPEN
Status: NATIVE
Subject: CIVAIR: PAN AM CHANGE OF GAUGE
TAGS: EAIR, FR, PANAM
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/a55a6479-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014